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**UNITED STATES DISTRICT COURT**

**SOUTHERN DISTRICT OF NEW YORK**

AUGME TECHNOLOGIES, INC.,  
a Delaware corporation,

Plaintiff,

v.

AOL LLC, a Delaware Limited  
Liability Company; Time Warner,  
Inc., a Delaware Corporation;  
Platform-A, Inc., a Maryland  
Corporation;

Defendants.

CASE NO. 09 Civ. 04299 (RWS)

**AMENDED NOTICE OF PLAINTIFF'S  
FILING OF MOTION FOR LEAVE TO  
FILE SECOND AMENDED  
COMPLAINT BEFORE JUDGE  
COLLEEN MCMAHON, JOINING  
CLAIMS AGAINST AOL BASED  
UPON FRAUD AND INEQUITABLE  
CONDUCT**

Filed: May 17, 2010  
Trial: None Set

**NOTICE OF FILING OF MOTION FOR LEAVE TO  
FILE SECOND AMENDED COMPLAINT JOINING  
CLAIMS AGAINST AOL**

1 TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF  
2 RECORD:

3 PLEASE TAKE NOTICE that on May 14, 2010 Plaintiff Augme  
4 Technologies, Inc. ("Augme") filed a Notice of Motion and Motion for  
5 Leave to File Second Amended Complaint Joining Claims Against AOL  
6 Based Upon Fraud and Inequitable Conduct, and Request to Amend the  
7 Scheduling Order ("Motion to Amend") requesting leave from the Honorable  
8 Colleen McMahon. The aforementioned were re-filed on May 17, 2010. To  
9 reflect the re-filing date of May 17, 2010, Augme now seeks to amend its  
10 Notice of Plaintiff's Filing of Motion for Leave to File Second Amended  
11 Complaint before Judge Colleen McMahon, Joining Claims Against AOL  
12 Based Upon Fraud and Inequitable Conduct.

13 Under the Motion to Amend, Augme seeks to add AOL Inc. as a  
14 defendant to the *Augme Technologies, Inc. v. Tacoda, Inc.* action, Case No.  
15 1:07-cv-07088 (CM), based upon alter ego liability, successor liability and  
16 fraudulent conveyance of assets to avoid inequitable results for Augme.

17 This motion is made pursuant to joinder rules and also Fed. R. Civ. P.  
18 15 on the ground that new facts occurring and/or discovered after Augme  
19 filed its First Amended Complaint on September 11, 2007 in the *Augme v.*  
20 *Tacoda* action pending before the Honorable Judge Colleen McMahon  
21 compel Augme to file this Second Amended Complaint based upon due  
22 diligence relating to Augme's patent infringement claims.

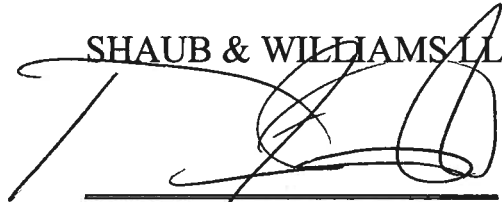
23 Upon the grant of the Motion to Amend by the Honorable Judge  
24 Colleen McMahon, Plaintiff will respectfully request that this Court grant  
25 Plaintiff's subsequent request to modify the stay solely as to AOL in this  
26 pending matter of *Augme Technologies, Inc. v. AOL LLC, et al.*, Case No. 09  
27 Civ. 04299 (RWS), and only as to liability for patent infringement for a  
28

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delineated time period. Plaintiff feels that this order of events is the most efficient to effectuate resolution of this matter.

Dated: May 17, 2010

SHAUB & WILLIAMS LLP



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